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Case No. 3:12-cv-00036-NKM
Sr. Judge Norman K. Moon

Bristol in September 2015, I had very limited sight in my left eye. The Bristol Jail would not provide the injections I had been receiving in my left eye and I lost all my sight.

5. Having recently become blind, I couldn't function normally. I lived in fear because I did not know who was around me. The worst part was not being able to see people's faces and know what to expect.

6. I suffered a spinal fracture in the Bristol Jail when an employee asked me to move a pile of plastic totes. I fell and injured my back in January 2016. No medic was on duty. My left leg became numb and I could not get up because of the intense pain. Seven or eight hours later, I was taken to the hospital. The neurosurgeon said my back was broken, and I was prepped for back surgery. However, because the Bristol Jail refused to pay for the surgery, that surgery was never done. The doctor at the Wellmont Hospital in Bristol said I should be in a back brace for four months. I received a back brace. The Jail officers took me from Bristol to the Abington Jail for six weeks.

7. When I got to FCCW in July 2016, no one told me my rights. No one gave me the orientation for new prisoners. No one told me there were grievance procedures or how to use them. I learned about the grievance procedures eight or nine weeks after I had been in the Infirmary, when other prisoners told me. No one read to me or gave me the Information Sheet about the *Scott v. Clarke* Settlement Agreement.

8. I received orientation information from Mr. Bowers only after my attorneys sent a letter to Director Clarke demanding that this be done. Mr. Bowers played a video on his laptop and when I listened ^{it was} ~~they were~~ about protections under the Prison Rape Elimination Act (PREA). He did not provide other information like details of the grievance system, what happens when one is charged with an infraction, or my rights to medical care.

9. For three to four months beginning in July 2016, I was held in a single cell in the FCCW Infirmary. I lived in the single cell in the Infirmary for almost two months before I learned there was a day room where women could visit. I only learned of that when Tina Miller, a prisoner, came to my room, invited me to the day room and pushed me to it in the wheelchair.

10. The shower located near the bed in my single cell had a curtain but no walls. Water from the shower pooled on the floor outside the shower area. The shower had no safety bars. I told the staff that the shower chair was defective and later a nurse told me it was missing parts of its legs. The standing water and the unbalanced shower chair caused me to fall several times. In August 2016, I was showering unsupervised when the defective chair caused me to fall again. The room had a call bell but it was broken, so I yelled for help and an officer found me on the floor. A nurse put me in bed and I laid there for the next several days. After I fell again, the staff at FCCW finally ordered X-rays. Dr. Gable, the Medical Director at FCCW, told me I had a fracture of the L-1 vertebrae.

11. The staff replaced the missing leg chair with a solid plastic chair, like those used in the day room. That chair held water in the seat and became slippery from shampoo and soap and I fell out of it.

12. From the time I got to FCCW and for the next 3-4 months, I fell six to seven times in the shower.

13. After Dr. Gable diagnosed the fractured vertebrae in August 2016, he prescribed Tylenol 3 as needed for pain and then Tramadol, another pain reliever. Often the nurses would pass by my room during pill pass without letting me know it was pill pass time. Because I am blind, I have no way of knowing when the nurses are nearby. Dr. Gable also ordered a back brace for me to keep my back straight. When the brace arrived, Nurse Griffin told me I owed a

co-pay of \$435. I said I didn't have any money. She said I could not have the brace until I paid. The nurse's aide gave me the brace on a day when it sounded like a large group of people were touring the Infirmary. I don't know who was touring that day.

14. Dr. Gable also ordered a toilet seat with bars for me after I had fallen getting off the toilet. The nurse said I owed \$90 copayment and I was unable to pay. I did not receive the toilet seat with bars

15. I did not get a new shower chair until I had filed many grievances. I had to ask for one for about two months. I believe that I ultimately received it only because Mr. Marano, DOC's ADA Coordinator, was scheduled to arrive at FCCW.

16. Mr. Marano also said the shower layout and other objects in the single rooms were so unsafe that I should not keep living in a single cell. I was moved to J Ward in the Infirmary; I believe it was in October 2016. Others in the Ward included Misty Moore, who has multiple sclerosis, and an older woman who had dementia.

17. Mr. Marano told the medical staff to install black mats on the floor of the shower and another mat for when I stepped out of the shower. I got these. Dr. Gable also told the staff to provide a toilet seat with lift bars and I got them. I got no help with instruction on how to get from my bed to the toilet or shower. Misty Moore helped me pace out my steps and she would carry my things I needed to the shower.

18. After repeated falls in J Ward, my back injuries became more painful. I had MRI's done on my back on November 16 and 22, 2016 at UVA Medical Center. An orthopedist at UVA told me that the breaks in my back had gotten worse because my spine had shifted and was not mending straight. She also said that, because I had fallen down several times in the Infirmary, I have at least four pinched nerves in my neck, which impact my spinal movements.

She said that without further treatment, I will have pinched nerves impinging on my left hip, and my leg will become numb and continue to go out on me. She also said if treatments did not help, I might need surgery. I understand that my joints and spine are getting stiff and without further treatment, they will continue to get worse.

19. The UVA orthopedist told me that her orders said that I needed to be sent out weekly for epidurals in my back for two months. She also said I needed weekly steroid injections around the pinched nerves. These treatments would prepare me for back surgery in approximately two months. For several weeks, FCCW did not send me to UVA for treatments. I never got surgery.

20. On approximately November 26, 2016, I was in the day room of the Infirmary when my back made a loud popping noise. I became immobile. Two nurses phoned Dr. Gable, who ordered me to lie flat and to keep ice on my back until it improved sufficiently for me to get up. They gave me one ice pack during the following five days. Nurses came to take me to the bathroom very infrequently and on one occasion I waited over 13 hours to urinate, despite pleas for assistance. No bedpans were offered to me, so I had to be moved to the regular toilets when I needed to urinate.

21. On November 27, 2016, Nurse Edinger refused to give me my prescriptions as Dr. Gable had ordered. I asked Tina Miller to write an Informal Grievance for me, but I needed to go to the day room to tell her what to write. When Tina asked the nurses to take me to the day room, Nurse Edinger told me she would write me up for a disciplinary infraction for not obeying Dr. Gable's orders for bed rest.

22. On December 15, 2016, FCCW sent me to UVA for the first back treatment including the epidurals and the steroid injections. After the treatment, the medical staff gave me *and an incision to put fluids in my back.*

written instructions about what I could and could not do. No one at UVA or at FCCW ever read these instructions to me or reviewed this list with me. I was not given a copy. The UVA medical staff told me to keep ice on my back for the first 24 hours. I only received one ice pack five hours after coming to FCCW. After the first ice pack had melted, I was told they were out of ice packs. I made repeated requests for icepacks, but no one gave them to me.

23. When the UVA doctor was discharging me on December 15, 2016, he also gave me a pain diary to keep until I came back for the next treatment. The pain diary would help them to narrow down where to put the next injections. The guards took the pain diary to FCCW but when I asked for it, they would not give it to me. No one ever gave it back to me.

24. Because I have diabetes, the UVA doctor said his December 15, 2016 discharge orders indicated that medical staff needed to check my blood sugar levels more frequently because of the steroids he had prescribed, but the Infirmary staff did not do that.

25. In December 2016 after I went out to UVA, my back brace broke across the T-bar, which goes horizontally across by chest and connects the upper part of the brace to the lower part. FCCW staff told me they would order me another one. I later learned they never ordered me a new brace.

26. On January 3, 2017, the nurses at FCCW told me to get dressed to be transferred to Western Virginia Regional Jail in Salem, Virginia for a court hearing. I asked for my back brace, which still had not been returned. The nurses looked for it and finally found it stored in the back of a closet in the Infirmary. No one had sent it to be repaired and it had not been replaced. Nurse Mars gave it to me to put on, even though it was broken. One of the guards said it was dangerous for me to wear the broken brace because I could use the "T-bar" for a

weapon. So Nurse Mars broke the T-bar completely off. Despite this, I wore the brace in transit because it was better than no extra support for my injured back.

27. I understand that FCCW had sent three days of my pain medicines to the Jail in Salem. When I arrived, the staff at Western Virginia Regional Jail took away the medicines and refused to give them to me. The doctor at the Jail took away my broken back brace, my talking watch and the white cane I had brought with me. They placed me in medical isolation/segregation.

28. In January 2017 at the Jail, I once again experienced the scary part of isolation. I fell multiple times because I was completely unfamiliar with the physical layout of the space where I was living. I did not know where things were. Because the Jail doctor had taken away my blind cane, I had nothing to use to feel for obstacles. Later they moved me to segregation. That isolation experience was so traumatic that I felt relieved to return to FCCW, where my friends Tina and Misty could help me. I returned to FCCW on about February 21, 2017.

29. **Failure to follow FCCW doctor's orders.** On approximately October 10, 2016, Dr. Gable ordered Tramadol at 9:00 am and 9:00 pm. He ordered Norco at 6:00 am, noon, 6:00 pm and midnight. I was routinely denied the 9:00 am Tramadol and the Norco at midnight. The nurses informed me that they do not do pill pass at those times.

30. Dr. Gable ordered a schedule of pain medications before Thanksgiving 2016. He prescribed Norco to be given at 6:00 a.m., noon, 6:00 p.m. and midnight. Some days I got the medication and some days I did not.

31. When Dr. Gable added Tramadol at 9:00 a.m. and 9:00 p.m. and Ibuprofen as needed, I hardly ever get the Tramadol at the prescribed time, except when one specific nurse was on duty. I believe the delays in bringing the medications were worsened by the Infirmary's

use of “agency” or temporary nurses who often delivered medications one and one-half hours late or not at all.

32. **Reordering prescriptions.** Five days before my pain medications ran out on October 31, 2016, I asked medical about being sure they were available. They said all they had to do was press a button on the computer. The medication prescriptions were not renewed and the medicines ran out. I began to have withdrawal symptoms. On November 2, 2016, I sent an Emergency Grievance saying I had been without pain medication since October 31, 2016. The response on November 2, 2016 was that the Norco “was renewed on 11/2. When ready your nurse will give it to you at pill pass.”

33. In the Infirmary, I had problems with Nurse Carlisle, who would grab my cheeks, press them to pucker my lips and then drop the pills in my mouth. I do not understand why she thought this abuse was necessary, because I always take my medicines without a problem. This went on for several days until I asked her to stop.

34. **Return from Western Virginia Regional Jail.** When the officers brought me back from the Jail in Salem, they would not give me the back brace to wear to FCCW during the 2 ½ hour drive.

35. As soon as I returned to FCCW, Dr. Kamal came to see me. When I asked about the pain prescriptions and back brace, he said they were treating me as “a new patient; the old things are gone.” When I asked about the UVA treatments for my back, he said, “We don’t care about UVA,” and that he was not listening to what the UVA doctors had said. They took away my profiles which stated what treatment or help I would get with my disabilities, since they treated me as a “new patient.” Dr. Kamal also threatened to take away my wheel chair.

36. Without the back brace, my back hurts constantly; on a scale of 1 to 10 with 10 being the most pain, my pain is about a 6 or 7. I can hardly get up out of bed. My left leg doesn't support me. Dr. Garvin, a doctor at FCCW, had told me I needed physical therapy before I left to go to court in southwest Virginia, but I never received physical therapy. Recently Dr. Behi at FCCW told me they could not do physical therapy for me at FCCW because I am blind. I learned on about May 16 that I had been approved to physical therapy two times per week at UVA. *But as of May 31, I have not been to physical therapy*

37. I also learned on about May 16, that I had been approved to return to UVA for injections in my back. *But I have not been to those either.*

38. I saw Dr. Gable Tuesday and Wednesday, February 28 and March 1. He refused to put me back on Norco but substituted Ibuprofen 600 mgs. twice a day. When I told Dr. Gable my vertigo was worse and I was falling, he said he would look into it, but I heard nothing. Now I have to wait until the Ibuprofen runs out, put in a request for sick call and pay \$5.00 to get the Ibuprofen renewed.

39. I have been an insulin-dependent diabetic for 29 years. Before I left to go to the Regional Jail, nurses were checking my sugar levels two times per day. I was getting an R-Insulin shot as needed and Metformin 1000 mg. two times a day. FCCW has not checked my sugar levels since my return.

40. On Wednesday, March 1, my counselor told me that my doctor said I was going to be moved into general population. Ms. Swann said I would be moved to a single cell. A single cell in general population does not have a sink or toilet, so I knew I would have to navigate through an unfamiliar space to handle basic hygiene and other activities. I asked about my

electric bed, which I depended on to get out of bed. I got no answer. I was very scared because I am vulnerable, and I did not know my way around and could be harmed by other women.

41. I moved to general population the next Monday. No staff helped me get oriented to the new space, so I would know where the bathroom and showers were; where the tables in the day room were; or how to get help when I needed it. Luckily, the women in Building 2 D offered to help me get around, including when I get up to go the bathroom in the middle of the night.

42. This experience made me believe that no one at FCCW has the knowledge to provide day-to-day services and assistance to blind prisoners. Nor do I believe they know the basics for keeping me safe.

43. I was assigned an aide who was supposed to be trained as a “special needs aide.” Instead of guiding me, she often ran me into doors or walls or other people. She was often distracted talking to other women and let me wander away from her instead of helping me. I missed meals at night three or four times because my aide said she did not like the food and would not go to the chow hall. She also told other women my “business,” including facts from my letters.

44. I want to learn how to use my blind cane and I filed an Informal Grievance last fall asking for instruction. But no one has taught me. I want to be independent and to do as much as I can without assistance.

45. I had not had anyone to help me fill out sick call requests until I got a new aide. When I managed to put requests in, for two weeks I was not called for sick call.

46. **Equipment.** When I was having problems getting medicines on time in the fall of 2016, several nurses had told me it is my responsibility to keep track of the time and to remind

the nurses when my medications are due. But I cannot see a clock. My request for a talking watch was denied for months during my time at FCCW. Not until December 27, 2016 did I get a talking watch. FCCW gave me an audio-player after I got back from the jail in February 2017. I appreciate that because it is the only outside diversion I have. They gave me a form to use to order books or Playboy magazine, but I cannot see and am unable to read the form.

47. **Braille instruction.** In the early fall of 2016, I was assigned another prisoner as a Braille tutor, but she showed up only a few times. I was told that DOC's priorities for education were those with low educational skills; because I had some college hours I did not qualify. They ignored the fact that I am recently blind and cannot see to read and do math. I talked to Mr. Marano and the Unit Manager about getting Braille instruction. They said DOC does not teach Braille here. Another prisoner volunteered to teach me Braille, but they FCCW said no because she was not qualified. I have gotten no Braille teaching since those first few days in 2016.

48. **Grievances.** Several times I have asked for grievance forms and have been denied them. I filed an Informal Grievance on November 2, 2016, because I was denied three Emergency Grievance forms and two Informal Grievance forms. The officers who work in the control room in the Infirmary said they did not have any.

49. On May 23, 2017, I went to sick call about 12:20 because my prescription for my vertigo medicine was running out the next day; they did not tell me that until the morning of May 23. I explained to Nurse Duvall that I had a lawyers' appointment at 1:30 that afternoon. She told me if I chose to go the lawyers' appointment, I could not see a doctor for 21 days and could not get my medicine renewed. She asked me to sign a refusal form but I declined. I filed an informal grievance the next day asking to get the medicine renewed. *I got the medicine in about two days.*

50. I do not understand why I am not on chronic care for my vertigo. I have suffered from it since I was a child and FCCW has given me medicine for it.

51. **Experiences before prison.** Before I went to prison, my husband abused me and our three children for seven years. My husband's violent ways cut me off from all my friends. I have no living family members. I had no one to talk with, particularly no women friends with whom I could discuss what was happening in our lives.

52. When I was a child, my grandmother who cared for me from ages four to 11 while my mother worked abused me.

53. Placing me in a single cell during my early months in the Infirmary shut me off from the other prisoners and I had no friends to talk with. That isolation on top of all the abuse I had suffered made me jumpy. And when a nurse in the Infirmary abused me, I withdrew because that reminded me of my past.

54. When Tina Miller came to my cell in the Infirmary, told me about the day room and invited me to join the others and to talk with them, I felt blessed. Tina helped me do many things I could not do because I could not see. When things troubled me or I did not get the treatment I needed, I asked Tina to write down what I said and she made notes for me.

55. Tina was the one who explained the grievance system to me; no staff had done that. I told Tina what I wanted to say in the grievances and she wrote them for me. Tina was the one who read the staff's responses to grievances and helped me to file the appeals. I got Tina to help me write to the Legal Aid Justice Center and she wrote what I dictated. I am so blessed because Tina came into my life. I had a friend with whom I could confide.

56. Because of the abuse and the isolation I had suffered, I had a very hard time trusting people. That is why it still frightens me when someone comes close to me and does not identify themselves.

57. When I was moved from the single cell in the Infirmary to Ward J, Misty Moore was very helpful. She could see and told me things necessary just to get by day-to-day. She told me where to walk to avoid blood from a woman with Hep C which ^{she said} was sprinkled in the floor of the main room in our ward and in the bathroom areas. She told me when I needed to avoid another woman's poop on the toilet seat or in the sink in the ward's bathroom. The medical staff told me to wake Misty up if I needed to go to the bathroom in the middle of the night. She always got up and helped me to the bathroom. I don't think I should have to depend on another prisoner to help me to the bathroom; that seems like a staff job.

58. I heard Misty ask the nurses ^{AND} ~~for~~ security staff ^{nurses} more than once to get someone to clean up the blood and the poop. I heard ~~staff~~ often say to Misty that she should clean it up.

59. I told these facts to my attorney and she read them to me.

I declare that the above facts are true to the best of my knowledge under penalty of perjury.

MAY 31, 2017

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~~MAHA~~
Melissa Harr